

**Before the  
Federal Communications Commission  
Washington, DC 20554**

In the Matter of	)	
	)	
Lifeline and Link Up Reform and Modernization	)	WC Docket No. 11-42
	)	
Telecommunications Carriers Eligible for Universal Service Support	)	WC Docket No. 09-197
	)	
Connect America Fund Compensation Regime	)	WC Docket No. 10-90
	)	

**COMMENTS OF  
GVNW CONSULTING, INC.**

GVNW Consulting, Inc. (“GVNW”)<sup>1</sup> respectfully submits these comments in support of the United States Telecom Association (“USTelecom”) Petition for Waiver (“*Waiver Petition*”) in the above captioned proceeding.<sup>2</sup> In its *Petition*, USTelecom seeks a waiver covering 27 states and territories of the amended Lifeline eligibility rules in sections 54.400(j) and 54.409(a) of the Commission’s rules, which were adopted in the *2016 Lifeline Modernization Order*.<sup>3</sup> USTelecom requests that the waiver expire at the earlier of: (1) 18 months from its grant or (2) 60 days after

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<sup>1</sup>GVNW Consulting, Inc. is a management consulting firm that provides a wide variety of consulting services, including regulatory and advocacy support on issues such as universal service, intercarrier compensation reform, and strategic planning for communications carriers in rural America.

<sup>2</sup>See United States Telecom Association Petition for Waiver, *Lifeline and Link Up Reform and Modernization*, WC Docket No. 11-42, *Telecommunications Carriers Eligible for Universal Service Support*, WC Docket No. 09-197, *Connect America Fund*, WC Docket No. 10-90, Third Report and Order, Further Report and Order, and Order on Reconsideration, FCC 16-38 (rel. Apr. 27, 2016) (“Third Report and Order” or “Order”), filed October 3, 2016.

<sup>3</sup>See *Lifeline and Link Up Reform and Modernization, et al.*, Third Report and Order, Further Report and Order, and Order on Reconsideration, 31 FCC Rcd 3962, 4021-4040, paras. 167-216 (2016).

the State notifies the Commission and all eligible telecommunications carriers (ETCs) in the State that it has aligned its eligibility criteria with the federal criteria.<sup>4</sup> USTelecom states that “Specifically, the waiver would apply: (1) in states that offer a state discount and where there is an inconsistency between state and federal eligibility criteria for the federal Lifeline program; and (2) where the state is unable to modify its state(s) and/or regulations(s), and/or state administered databases and processes related to third party eligibility determinations, to be in alignment with the new federal criteria sufficiently in advance of the December 1, 2016, deadline so that providers are able to implement the change requirements in a particular state.”<sup>5</sup> Eligibility determinations include both enrolling and recertifying Lifeline customers.

USTelecom has requested a targeted and limited waiver which would apply only in the affected states and only until a particular affected state has updated its statutory and/or regulatory Lifeline eligibility framework, as well as its eligibility databases and other determination processes, and providers have had a reasonable period of time to implement those changes. The narrow approach taken in the *Waiver Petition* is prudent and reasonable and should be accepted by the Commission. Failure to grant the waiver could result in denial or delay of Lifeline benefits to low-income subscribers in the affected states, defeating the goal of the Lifeline program.

GVNW has received many inquiries from its small rural local exchange carrier (RLEC) ETC clients who are obligated to provide Lifeline service and are confused about and dismayed by the administrative burdens and consumer confusion resulting from the difference between eligibility requirements for state and federal Lifeline benefits. As noted by USTelecom in its

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<sup>4</sup>If the Lifeline eligibility criteria are statutory as in Florida and West Virginia, and possibly other states (*see Waiver Petition* at 10), they can only be changed with action of the state legislature, which in the case of the states cited do not meet until 2017.

<sup>5</sup>*See Waiver Petition* at 6 and 7.

*Petition for Reconsideration of the Lifeline Order*,<sup>6</sup> it is unlikely that most or all affected states will be able to conform their rules or amend their statutes to conform to the Federal eligibility programs prior to the effective date of the new federal rules. During the interim period, in states with eligibility criteria different from the federal rules (which they may have originally been designed to mimic), Lifeline providers will have to separately determine state and federal eligibility and separately apply Lifeline discounts if a subscriber is eligible for one or both. This is a recipe for confusion which could lead to innocent misapplication of the state or federal discounts. Further, it adds burdens with respect to billing since the state and federal discounts will have to be disaggregated so that they can be separately applied.

In its *Petition for Reconsideration*, USTelecom made the very sensible suggestion that states be provided a reasonable amount of time to conform their Lifeline eligibility criteria to the federal criteria.<sup>7</sup> In comments on that Petition, GVNW encouraged the Commission to reconsider the timing of the implementation of the revised eligibility criteria per USTelecom's recommendation.<sup>8</sup> As noted by USTelecom, consistency between state and federal Lifeline eligibility criteria allows both providers and relevant state agencies and administrators to continue to manage a single population of Lifeline subscribers.<sup>9</sup>

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<sup>6</sup>See *United States Telecom Association Petition for Reconsideration and Clarification, Lifeline and Link Up Reform and Modernization*, WC Docket No. 11-42, Telecommunications Carriers Eligible for Universal Service Support, WC Docket No. 09-197, Connect America Fund, WC Docket No. 10-90, Third Report and Order, Further Report and Order, and Order on Reconsideration, FCC 16-38 (rel. Apr. 27, 2016), filed June 23, 2016, at p. 6 (“*USTelecom Petition for Reconsideration*”).

<sup>7</sup>*Id.* at p. 6.

<sup>8</sup>See *GVNW Consulting, Inc. Opposition to Petitions for Reconsideration*, WC Docket No. 11-42, Telecommunications Carriers Eligible for Universal Service Support, WC Docket No. 09-197, Connect America Fund, WC Docket No. 10-90, Third Report and Order, Further Report and Order, and Order on Reconsideration, FCC 16-38 (rel. Apr. 27, 2016), filed July 29, 2016.

<sup>9</sup>*USTelecom Petition for Reconsideration* at p. 9.

Because of the onrushing December 1, 2016, implementation date for the reformed Lifeline program, and the lack of action so far by the Commission on the numerous reconsideration issues raised by various parties, USTelecom has reasonably requested a very targeted and time-limited waiver to allow states time to align their eligibility criteria with the new federal criteria. GVNW strongly supports grant of the waiver, but also requests that the Commission, on a timely basis, review and respond to the other issues raised by various parties requesting reconsideration of the Order.

**I. The Commission Should Address the Two Categories of States Where Misalignment in Eligibility Criteria Will Create Implementation Problems for Providers and Confusion for Customers**

As explained in USTelecom's *Waiver Petition*, there are two categories of states that create separate challenges: (1) those with a state Lifeline discount and in which the provider makes eligibility determinations, and (2) those with a state discount and in which a third party, such as the public utility commission or a third party administrator makes the eligibility determination.<sup>10</sup> The first group of states could create three discrete sets of Lifeline subscribers – those eligible for both federal and state discounts, those eligible for only federal discounts, and those eligible for only state discounts. To accommodate these sets of subscribers would require providers to further complicate an already confusing application process by presenting a potential Lifeline subscriber with three different sets of eligibility options, each tied to its own benefit, or even presenting the customer with three different application forms. As USTelecom states “In addition to trying to create and accommodate these various applications and benefits, Lifeline providers will have to

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<sup>10</sup>See *Waiver Petition* at 2 and 3. USTelecom actually identifies a third category of states – those for which no waiver is requested because providers can rely on the Lifeline Order's preemptive effect. (See *Waiver Petition* at Fn 3).

rework both back office and customer-facing processes, rate plans, IT systems, and financial reporting mechanisms.”<sup>11</sup> Devoting resources to these tasks, particularly if they are only needed temporarily as states come into conformance with the federal eligibility requirements, is a tremendous burden, especially for the small RLECs served by GVNW who generally have a very limited number of administrative staff serving a very small number of Lifeline subscribers. The Commission has expressed concern and has placed limits on the corporate operations expense of small RLECs as well as their overall operating expenses. Immediate imposition of differing federal and state eligibility requirements for Lifeline will create unnecessary burdens and costs on providers in affected states which could be avoided by grant of USTelecom’s waiver request.<sup>12</sup>

The second group of states, where the state or a third party makes the Lifeline eligibility determination, creates an even more confusing situation for both providers and especially consumers. As noted by the *Waiver Petition*, consumers may need to apply directly with the provider for federal discounts, for which providers are not prepared,<sup>13</sup> and with the state for state discounts.<sup>14</sup>

USTelecom has done a service for the Commission, consumers, states and territories, and ETCs by identifying 27 states and territories where a waiver is needed. The Commission should also permit USTelecom to amend its waiver request to add New Jersey to its list of states and

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<sup>11</sup>See *Waiver Petition* at 4.

<sup>12</sup>The operating expenses of small RLECs in affected states will also suffer in comparison to those in states where the Lifeline eligibility criteria are either in conformance or are subject to federal preemption.

<sup>13</sup>If state law permits such a process.

<sup>14</sup>See *Waiver Petition* at 5.

territories, as it filed a letter amending its request as promised within fourteen calendar days from the date of its *Waiver Petition* requested that addition.<sup>15</sup>

## **II. USTelecom Has Demonstrated Good Cause to Grant the Requested Waiver**

USTelecom has clearly explained the special circumstances in the 27 affected states and territories that warrant a deviation from general rules to serve the public interest. GVNW has clients in several of the affected states. As stated by USTelecom, the misalignment between the federal Lifeline eligibility requirements and those of a number of states “significantly complicates the application and intake process, eligibility determinations, recertifications, customer counts, rate plans (which now must proliferate – with potentially three sets of discounted rates for every one discounted rate previously provided) and every other aspect of managing the Lifeline program.”<sup>16</sup>

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<sup>15</sup>See *Waiver Request* at 10 and Letter to Marlene H. Dortch from Kevin G. Rupy, Vice President Law and Policy, USTelecom Association, requesting the amendment of the *Waiver Request* to add New Jersey, filed Oct. 17, 2016, in Lifeline and Link Up Reform and Modernization, WC Docket No. 11-42; Telecommunications Carriers Eligible for Universal Service Support, WC Docket No. 09-197; Connect America Fund, WC Docket No. 10-90.

<sup>16</sup>See *Waiver Petition* at 8.

### III. Conclusion

In 2012, the Commission granted a waiver request in conjunction with administration of the Lifeline program with respect to states in which a state Lifeline administrator or other state agency would be collecting subscriber certifications of eligibility, but had not yet modified their procedures in accordance with the Commission's 2012 Lifeline reform order to provide ETCs with subscriber certifications.<sup>17</sup> As noted by USTelecom, "There, as here, the Commission was addressing an environment where the federal obligations of the program were not in alignment with state capabilities."<sup>18</sup> USTelecom has similarly fashioned a temporary, narrowly-tailored waiver which provides states an opportunity to bring their legal frameworks and databases into conformance with the new federal rules. Grant of the waiver will ensure that consumers are not harmed and providers and states are not unduly burdened by the Commission's sensible reforms to the Lifeline program. GVNW supports prompt grant of the waiver by the Commission.

Respectfully submitted,

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<sup>17</sup>See Waiver Order, *Lifeline and Link Up Reform and Modernization*, 27 FCC Rcd 5941, DA 12-863 (rel. May 31, 2013).

<sup>18</sup>See *Waiver Petition* at 12.